FILE COPY

Office Supreme Court
FILED
DEC 29 1
CHARLES ELMORE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1930.

No. 596

GRANITEVILLE MANUFACTURING COMPANY,
APPELLANT,

vs.

W. G. QUERY, J. P. DERHAM, AND F. C. ROBINSON, PERSONALLY AND AS MEMBERS OF SOUTH CAROLINA TAX COMMISSION.

STATEMENT OF JURISDICTION.

P. F. HENDERSON,
HENDERSONS & SALLEY,
Counsel for Appellant.

(35,518)

INDEX.

Subject Index.

	Page
Statement of jurisdiction:	
Statutes	1
Decree	2
Nature of the case and rulings below	2
Cases relied on to sustain the jurisdiction	4
Conclusion	4

Table of Cases Cited.

Baldwin v. Missouri, 281 U. S., 586	4
Beidler v. South Carolina Tax Commission (No. 2, October Term, 1930, decided November 24, 1930)	4
Coughlan v. South Carolina R. R., 142 U. S., 101	4
Davis v. Wallan, 257 U. S., 482	4
Farmers Loan & Trust Co. v. Minnesota, 280 U. S., 204	4
Phipps v. Harding, 70 Fed., 468	4
Safe Deposit & Trust Co. v. Virginia, 280 U. S., 83	4
Smith v. Wilson, 273 U. S., 388	4

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1930.

No. 596

GRANITEVILLE MANUFACTURING COMPANY,
APPELLANT,

vs.

W. G. QUERY, J. P. DERHAM, AND F. C. ROBINSON, PERSONALLY AND AS MEMBERS OF SOUTH CAROLINA TAX COMMISSION, APPELLEES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF SOUTH CAROLINA.

STATEMENT OF JURISDICTION.

In compliance with Rule 12 of this Court, appellant submits herewith its statement showing the basis of this Court's jurisdiction in the above entitled cause.

A.

Statutes.

The statutory provisions relied upon to sustain jurisdiction are those allowing a direct appeal to the

Supreme Court of the United States from the denial of an application for an interlocutory injunction by a Statutory Court of three Judges, under the circumstances hereinafter set out, namely:

Section 266 of the Judicial Code as amended (U. S. C., Title 28, Section 380) and Section 238 thereof (U. S. C., Title 28, Section 380).

B.

Decree.

The final decree sought to be reviewed on this appeal was entered in the District Court on the 17th day of October, 1930 (R. 56).

The petition for appeal (R. 58) was filed and the order allowing the appeal was entered and filed on the 10th day of November, 1930 (R. 60).

C.

Nature of the Case and Rulings Below.

This suit (R. 2) was brought in the District Court to enjoin the threatened collection of a tax amounting to more than $5,000 through execution against and sale of appellant's property by appellees, acting as members of South Carolina Tax Commission, an administrative board of said State, and acting to enforce an order of such board made under and pursuant to a statute of said State. The suit was based on the ground of the unconstitutionality of such Statute and the proceeding had thereunder. The appellant sought an interlocutory injunction (R. 2 and 4), as well as a

permanent injunction, and the District Judge, acting under Section 266 of the Judicial Code as amended, called (R. 41) two Circuit Judges to his aid, and said three Judges, sitting as a Statutory Court, heard the application for an interlocutory injunction (R. 41). The ruling of the Court was a denial of the application for an interlocutory injunction (R. 56). This appeal was taken, and allowed by said three Judges (R. 60), directly to the Supreme Court, within thirty days after the filing of the order denying the interlocutory injunction.

Appellant's claim (R. 2) was that appellees were threatening to enforce a documentary stamp tax under a Statute of South Carolina upon notes executed by it and delivered to banks in New York, Massachusetts, and Georgia, and that said threatened tax was illegal and that the proceeding thereabout amounted to the taking of property without due process of law and was repugnant to the Fourteenth Amendment of the Constitution of the United States for the reasons (1) that said notes as intangibles could have but one taxable *situs*, and that at the domicile of their owners, namely, in New York, Massachusetts, or Georgia, and certainly not in South Carolina, and (2) that said papers under the facts of this case (R. 34) did not become taxable notes until they were delivered and accepted and actually become complete and non-revocable in New York, Massachusetts or Georgia, and were never property existing and subject to taxation in South Carolina. It was alleged (R. 2 and 42) and the Court held that there was no adequate remedy at law open to appellant.

It is to be noted that the Court below held that notes executed by appellant in Georgia could not be taxed in South Carolina and enjoined the threatened collection of a tax thereon. No appeal was taken from this action of the Court, hence no reference has hereinbefore been made to this phase of the case.

D.

Cases Relied on to Sustain the Jurisdiction.

Smith *vs.* Wilson, 273 U. S. 388.

Davis *vs.* Wallan, 257 U. S. 482.

Safe Deposit & Trust Company *vs.* Virginia, 280 U. S. 83.

Farmers Loan & Trust Company *vs.* Minnesota, 280 U. S. 204.

Baldwin *vs.* Missouri, 281 U. S. 586.

Beidler *vs.* South Carolina Tax Commission (decided November 24, 1930).

Coughlan *vs.* South Carolina Railroad, 142 U. S. 101.

Phipps *vs.* Harding, 70 Fed. 468.

We respectfully submit that the Court has jurisdiction of this appeal by virtue of the statutory provisions hereinabove designated.

Respectfully submitted,

P. F. HENDERSON,
HENDERSONS & SALLEY,
Solicitors for Appellant.

DECEMBER 27TH, 1930.